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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,782	04/11/2001	Tatsuya Kato	14499	2257
23389	7590	10/26/2004	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA GARDEN CITY, NY 11530			FOX, JAMAL A	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/832,782	<b>Applicant(s)</b> KATO, TATSUYA	
	<b>Examiner</b> Jamal A Fox	<b>Art Unit</b> 2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 6-8 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/832,782.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/02/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it should be within the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: On page 26 line 1 "ABSTRACT" needs to be changed to – ABSTRACT--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asai et al. in view of Hikita.

Referring to claim 1, Asai et al. discloses an Internet telephone apparatus (Fig. 3 and col. 4 line 61-col. 5 line 18) that transmits (transmitted, col. 5 line 5) and receives a call data through an internet (internet, col. 5 lines 11-18), but does not explicitly teach of a switching controller for controlling and switching a protocol of a data transfer responding to a congestion situation of the internet. However, Hikita discloses a switching controller (Drawing 2, ref. sign 127, Drawing 6 ref. sign 221 and respective portions of the spec.) for controlling and switching (UDP protocol or a TCP protocol, [0008]) a protocol of a data transfer responding to a congestion (congestion, [0007]) situation of the Internet. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the switching controller of Hikita to the invention of Asai et al. in order to identify and transfer packets to individual terminals as suggested by Asai et al.

Referring to claim 4, Asai et al. discloses the Internet telephone apparatus according to claim 1, but does not explicitly teach of a receiver for receiving and processing a data received through the Internet being included and the switching controller detecting a congestion situation of the Internet based on a receiving situation of the receiver. However, Hikita discloses a receiver (receiving side, [0008] and Drawing 3 ref. signs 222 and 223) for receiving and processing a data received through the Internet being included and the switching controller detecting a congestion (congestion, [0007]) situation of the Internet based on a receiving situation of the receiver. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the receiver of Hikita to the invention

of Asai et al. in order to receive data that is being routed from computer network to computer network as suggested by Asai et al.

Referring to claim 6, Asai et al. discloses the Internet telephone apparatus according to claim 1, wherein a voice compressor (CPU 11, col. 11 lines 12-32) for compressing (audio signal compression, col. 11 lines 12-32) the call data being included, but does not explicitly teach of a compressed voice data being adapted to be delivered to the switching controller. However, Hikita discloses a switching controller (Drawing 2, ref. sign 127, Drawing 6 ref. sign 221 and respective portions of the spec.). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the switching controller of Hikita to the invention of Asai et al. in order to identify and transfer packets to individual terminals as suggested by Asai et al.

Referring to claim 7, Asai et al. discloses the Internet telephone according to claim 6, but does not explicitly teach of an image compressor for compressing an image data in addition to the call data being included and a compressed image data being adapted to be delivered to the switching controller together with the compressed voice data. However, Hikita discloses an image compressor (image coding section 11, [0015]) for compressing an image data in addition to the call data being included and a compressed image data being adapted to be delivered to the switching controller together with the compressed voice data. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the

image compressor of Hikita to the invention of Asai et al. in order to be able compress the data portion of the data that contains audio as suggested by Asai et al.

Referring to claim 8, Asai et al. discloses the Internet telephone apparatus according to claim 7, wherein the receiver includes an expander (expansion processing, col. 11 lines 12-32), but does not explicitly teach of the expander expanding the compressed data of the voice and image and the switching controller including a controller for detecting the congestion situation responding to a processing error of expanding and decoding by the expander. However, Hikita discloses an expander (image decryption section 21, [0016]) and a switching controller (Drawing 2, ref. sign 127, Drawing 6 ref. sign 221 and respective portions of the spec.) including a controller (UDP packet disassembly section 222, [0017]) for detecting the congestion (congestion, [0007]) situation responding to a processing error (error, [0008]) of expanding and decoding by the expander. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the expander and switching controller of Hikita to the invention of Asai et al. in order to expand the received signals and be able to identify and transfer packets to individual terminals as suggested by Asai et al.

***Allowable Subject Matter***

6. Claims 2, 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

**7. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 305-3988, (for formal communications intended for entry)

**Or:**

(703) 305-3988 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121  
Crystal Drive, Arlington, VA. 22202, Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

Application/Control Number: 09/832,782

Page 7

Art Unit: 2664

*Jamal A. Fox*  
Jamal A. Fox

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.